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WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA, LOUISIANA



UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 6:12-334

VERSUS

CIVIL NO. 6:15-2889

JUDGE DRELL

RAY HATTON, III

MAGISTRATE JUDGE HANNA

**JUDGMENT**

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record including the objections filed by the petitioner, and having determined that the findings and recommendation are correct under the applicable law;

**IT IS ORDERED** that the Motion to Vacate filed pursuant to 28 U.S.C. § 2255 by *pro se* petitioner Ray Hatton, III [rec. doc. 47] is **DENIED AND DISMISSED WITH PREJUDICE** because petitioner's claims are barred by the one-year limitation period set forth in 28 U.S.C. § 2255(f).

In so ruling, we note that, for the first time in his objection, petitioner says that he attempted to file this action by using the "mailbox rule" on November 27, 2015. He claims it must have been lost by the prison or just was not timely received.

While, sometimes mailing from prisons can be difficult for inmates, in this case we find his assertion of a lost November 27 filing to be disingenuous. In his

actually filed petition (Doc. No. 47), petitioner went to great lengths to say that he had made no previous filing. See Question No. 10.

More significantly, in Question No. 18 he explained:

Direct appeal was final on September 25, 2014. I then had 90 days to apply for Writ of Certiorari but chose not to do so. This gave me one year from that date to file which would be December 25, 2015 and I am filing on December 23, 2015.

Nowhere did petitioner mention an attempted earlier filing, and, indeed, his explanation is precise. The fact that it may be legally incorrect is of no moment for present purposes. We find that based on petitioner's own representations, no such attempted November 27 filing occurred. Thus no further inquiry is required.

**THUS DONE AND SIGNED**, in chambers, in Alexandria, Louisiana, on this 17<sup>th</sup> day of May, 2016.



**DEE D. DRELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT**